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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,128	10/12/2001	Victor B. Goodman	FIL1-BO98	2425

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EXAMINER

POND, ROBERT M

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/977,128	Applicant(s) GOODMAN ET AL.	
	Examiner Robert M. Pond	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

All pending claims (1-10 and 12-15) were examined in this non-final Office Action necessitated by new grounds of rejection.

Response to Arguments

Applicant's arguments, see Remarks, filed 21 October 2004, with respect to the rejection(s) of claim(s) 1-10 and 12-15 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Arnold and ASTA.

Note: The Examiner believes that the Applicant's claimed invention is an adaptation of an old and well-known vendor-rep firm model. A rep firm, being a non-stocking dealer takes the order, payment information, and relies upon the manufacturer to fulfill the order. Depending upon the agreement, the rep firm can pass along the percentage belonging to the vendor for fulfillment and keep the agreed-to commission, or pass all the sales data to the vendor for processing and subsequent commission payment back to the rep-firm. The Examiner believes ASTA provides an example of a vendor- rep firm (a.k.a. a travel agency) model. The net- it is a business decision on the part of the vendor as to how

much risk the vendor incurring tangible product and shipping costs is willing to take with the rep firm or an affiliate content site.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 1. Claims 1-4, 6, 8-10, and 12-15 are rejected under 35 USC 103(a) as being unpatentable over Arnold et al. (Paper #, patent number 6,016,504 hereinafter referred to as "Arnold"), in view of ASTA (Paper #20040419, Item: U).**

Arnold teaches a system and method of providing content-rich sites with commissions based on purchases made as a result of an online referral (see at least abstract; col. 2, line 24 through col. 4 line 32). Arnold further teaches:

- *Providing a host web site capable of routing web users from the host web site to the other web sites:* virtual outlet web site (please note: hereinafter referred to as "host web site") routes customers to merchant web site (please note: hereinafter referred to as "vendor web site") (see at least Fig. 1A (1A01-04; 1A09, 1A10, 1A11); Fig. 1B (1B10, 1B20, 1B30); col. 4, lines 8-18; col. 4, lines 41-55).

- Providing software to be installed on the vendor web site: (see at least col. 5, lines 64-76; col. 6, lines 13-34, 50-64).
- Requesting and obtaining customer's payment information by the vendor web site: the host site provides a vendor's product information at the host site and upon the customer taking an affirmative action at the host's site, links to the vendor's site to make the purchase and return to the referring host site (see at least col. 4, lines 16-21); customer makes an affirmative act to purchase and makes a purchase using credit card at the vendor site and returns to host site automatically (see at least Fig. 27 ("Confirm Order")); col. 5, lines 24-40; col. 8, lines 2-6).
- Fulfilling the customer's purchase request by the vendor's web site;
shipping products; tracking transactions; storing transaction data: catalog of product or services (see at least col. 8, lines 10-15); customer provides vendor site a delivery address (please note examiner's interpretation: product shipped to customer's delivery address) (see at least col. 8, line 2); tracking transactions (sales, fulfillment) (see at least col. 1, lines 5-10; col. 5, lines 23-25); storing transaction data (see at least col. 6, lines 43-49).
- Collecting funds for the transaction and transferring a percentage of funds: vendor web site collects funds from purchase and credits the host with a commission or fee (please note examiner's interpretation: transferring a percentage of funds) (see at least col. 5, lines 63 through col. 6, line 1).

Arnold teaches all the above as noted under the 103(a) rejection and teaches a) the host site providing a vendor's product information at the host site upon the customer taking an affirmative action at the host's site, and linking to the vendor's site to facilitate purchase at the vendor's web site and subsequent return to the referring host site, b) a commission-based model of a host site receiving a commission from the referred vendor web site, the host site being a simple bridge to the vendor web site (see at least col. 3, lines 23-37), and c) the virtual outlet system be quite flexible in accommodating virtual outlet relationships (see at least col. 14, lines 50-55). Arnold, however, does not disclose accepting payment from the host web site in return for the vendor web site's fulfillment of a customer purchase request made by a customer routed to the vendor web site via the host web site and collecting funds (please note examiner's interpretation of the Applicant's claim element: a type of relationship between host web site and a vendor web site). ASTA teaches a host-vendor relationship existing between travel agencies (referring hosts) and operators (vendors providing fulfillment). ASTA teaches the old-fashion method of collecting funds directly from the customer and paying the operator their percentage less host commission (U: see at least page 2). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Arnold based on the old fashion way of having a relationship that relies upon the host to accept payment information, collecting funds, vendor providing fulfillment, and paying the vendor

as taught by ASTA, in order to ensure the referring host controls the money, and thereby attract hosts desiring this type of relationship.

Pertaining to system Claims 10 and 12-15

Rejection of Claims 10 and 12-15 is based on the same rationale as noted above.

2. **Claims 5 and 7 are rejected under 35 USC 103(a) as being unpatentable over Arnold (Paper #, patent number 6,016,504) and ASTA (Paper #20040419, Item: U), as applied to Claims 1 and 14, further in view of Bezos et al. (Paper #2, patent number 6,029,141 hereinafter referred to as "Bezos").**

Arnold and ASTA teach all the above as noted under the 103(a) rejection and teach a) various methods of providing affiliate marketing, and b) associating a customer with a particular affiliate, but do not specifically disclose recognizing the customer's computer cookie. Bezos teaches methods of affiliate marketing and further teach the use of computer cookies to identify the customer (see at least abstract; col. 5, lines 5-60). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Arnold and ASTA to rely upon a computer cookie as taught by Bezos, in order to identify the customer.

Arnold and ASTA teach all the above as noted under the 103(a) rejection and teach a) a vendor paying funds to a host, b) the host paying funds to the vendor,

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and c) storing transactional data, but do not specifically disclose generating a report. Bezos teaches all the above as noted under the 103(a) rejection, and further teaches keeping track of payments that are due to affiliates (please note: payments due as result of completing the sale) and generating reports based on affiliate traffic (see, at least col. 7, lines 20-40; col. 16, lines 9-41). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Arnold and ASTA to generate payment reports as taught by Bezos, in order to accurately account for affiliate activity and payments, and thereby attract affiliates to the service requiring records for business purposes.

Conclusion

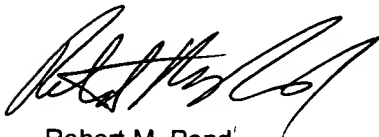
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US 6,272,472 (Danneels et al.) 07 August 2001; teaches links between supplier and reseller web sites.
- US 5,970,472 (Allsop et al.) 19 October 1999; teaches manufacturer-dealer model; a host (manufacturer) referring completed sales transaction to a vendor for fulfillment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 703-605-4253. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert M. Pond
Primary Patent Examiner
January 10, 2005